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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

In re TROY S., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,
Plaintiff and Respondent,
v.
TROY S.,
Defendant and Appellant.

A107684

(Contra Costa County
Super. Ct. No. J01-02222)

Troy S. appeals from the juvenile court's jurisdictional order sustaining the allegations of a Welfare and Institutions Code section 602 delinquency petition and from the dispositional order continuing him as a ward of the court and placing him in the Orrin Allen Youth Rehabilitation Facility. Appellant's court-appointed counsel has briefed no issues and asks this court to review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

A third supplemental petition against appellant alleged that he committed a second degree robbery of Eric Ayres on January 9, 2003, in violation of Penal Code sections 211 and 212.5, subdivision (a). The petition was amended to add the allegation of an unrelated misdemeanor battery, in violation of Penal Code sections 242 and 243, subdivision (a), occurring on June 4, 2004. At the time of the offenses appellant was 17 years of age and a ward of the juvenile court based on earlier Penal Code violations. After being fully advised of the constitutional rights he was waiving, appellant admitted

the commission of the misdemeanor battery. Following a contested jurisdictional hearing, the court found beyond a reasonable doubt that appellant had participated in the robbery.

Appellant's counsel identifies as an issue that might arguably support the appeal whether there was sufficient evidence to sustain the allegation of second degree robbery where there was no evidence that appellant either hit the victim or personally took the Go-Ped[®] (a gas-powered scooter) that was taken from him, and his companion at the time of the incident testified that appellant voiced disapproval of the plan to take the Go-Ped. We have no doubt that the evidence was sufficient.

Eric, the 13-year-old victim, testified that on the afternoon of January 9, 2004, he was alone on a trail behind his school with his Go-Ped when he was approached by another student named Patrick who asked him questions about the Go-Ped. After Patrick left, Eric was approached by two older boys, appellant and Robert S., who spoke with him for five to ten minutes about the scooter. When Eric saw someone (identified by other testimony as Patrick, Robert's younger brother) in a nearby bush, he went to see who it was and was followed by appellant and Robert. The boy in the bushes ran and then one of the two boys struck Eric in the head, causing him to fall to the ground and suffer a minor concussion. One of the boys laughed. One of them picked up the Go-Ped and the two ran away with it. Eric returned to the school and reported the incident to school authorities and then to the police. At the jurisdictional hearing, eight months after the incident, Eric did not remember which of the two boys hit him and picked up the scooter, but shortly after the incident he told a police officer and his father that it was Robert who struck him and ran with the Go-Ped, and that it was appellant who laughed.

Robert testified and took responsibility for the theft. He testified that after his brother Patrick told him there was a boy on the trail with a Go-Ped, he told appellant that he was going to take it. Robert was "not sure exactly what he [appellant] said, but he said—or well, he was kind of unsure. He didn't say, 'yeah, let's go do it.' He—he didn't really look like he thought it was a good idea, but he came with me." Robert confirmed that he and appellant approached Eric and engaged him in conversation, said that he

(Robert) punched Eric in the head and picked up his scooter, and confirmed that the two then “walk[ed] quickly” away.

In sustaining the allegation against appellant, the trial judge explained that she did “not believe in total Robert S[.]’s testimony today. Of course he has a motive for testifying. He wants to get his friend off. He probably got his friend in this. I don’t doubt for a second that he was the ringleader and got his friend in this event. But I don’t doubt for a second that this friend, the young man before me, knew exactly what was going to happen. He knew he was going to go down there, and he was going to take it, and he participated in the whole thing.” The evidence amply supports the finding that by engaging Eric in conversation with knowledge of the plan to take his scooter and then fleeing with him and the scooter, appellant was an active participant and an aider and abettor in the commission of the robbery. (*People v. Hill* (1998) 17 Cal.4th 800, 851-852; *People v. Jones* (1980) 108 Cal.App.3d 9, 15.)

At the dispositional hearing, the court continued appellant as a ward of the court and continued him on probation until his nineteenth birthday, removed him from his father’s home and placed in the Orrin Allen Youth Rehabilitation Facility for a six-month program, ordered him to pay Eric restitution and write letters of apology, and imposed other standard conditions of probation. The disposition was well within the court’s discretion.

Appellant was at all times represented by competent counsel. We find no indication of error in the record and affirm the judgment.

Pollak, J.

We concur:

McGuiness, P. J.

Corrigan, J.